



BILLING CODE: 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XG459

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Pacific Coast Groundfish Fishery; Applications for Exempted Fishing Permits (EFP)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments.

SUMMARY: NMFS announces the receipt of three exempted fishing permit (EFP) applications. NMFS has made a preliminary determination that these EFP applications warrant further consideration. The applications, submitted by the San Francisco Community Fishing Association, Scott Cook, and Real Good Fish, request exemptions from prohibitions to fish for rockfish species in the non-trawl Rockfish Conservation Areas during the 2019-2020 fishing years. All three applicants request to test hook-and-line gear that selectively harvests underutilized, midwater rockfish species while avoiding bottom-dwelling, overfished rockfish species. NMFS requests public comment on these applications.

DATES: Comments must be received by *[insert date 30 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2018-0093, by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov#!/docketDetail;D=NOAA-NMFS-2018-0093, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments. The EFP applications will be available under Supporting Documents through the same link.
- *Mail:* Submit written comments to Lynn Massey, West Coast Region, NMFS, 501 W. Ocean Blvd., Ste. 4200, Long Beach, CA 90802-4250.
- *Instructions:* Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (*e.g.*, name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Lynn Massey, West Coast Region, NMFS, (562) 436-2462, lynn.massey@noaa.gov.

SUPPLEMENTARY INFORMATION: This action is authorized by the Pacific Coast Groundfish Fishery Management Plan and the regulations implementing the Magnuson-Stevens Fishery Conservation and Management Act at 50 CFR 600.745, which state that EFPs may be

used to authorize fishing activities that would otherwise be prohibited.

At its June 2018 meeting, the Pacific Fishery Management Council (Council) made its final recommendation to NMFS on three EFP applications. The Council considered the EFP applications concurrently with the 2019-2020 biennial harvest specifications and management process because expected catch under each EFP is included in the catch limits for groundfish stocks. All three EFP applicants request to test hook-and-line gear that selectively targets underutilized, midwater rockfish species (*e.g.* yellowtail rockfish) while avoiding overfished, bottom-dwelling rockfish species (*e.g.* yelloweye rockfish). An EFP is necessary for these activities because they will all occur in the non-trawl RCA, which is closed to fishing with non-trawl fixed gear to protect overfished groundfish stocks. A summary of each EFP application is provided below:

- **Yellowtail Rockfish Jig Fishing for the 2019-2020 Fishing Seasons:** The San Francisco Community Fishing Association (SFCFA) and Daniel Platt submitted a renewal request for EFP activities that have been conducted since 2013. This EFP would authorize seven vessels to test the potential for a new commercial jig gear configured to target underutilized, midwater yellowtail and shelf rockfish species while avoiding overfished, bottom-dwelling yelloweye and canary rockfish. These EFP activities would take place within the non-trawl RCA off the California coast – specifically between Point Conception and the Oregon/California border at depths ranging from 35 to 150 fathoms (64 to 274 meters (m)).
- **Commercial Midwater Hook-and-Line Rockfish Fishing in the RCA off the Oregon Coast:** Scott Cook of Coos Bay, Oregon submitted an EFP to authorize 3-5 vessels to test

a modified, midwater trolled longline gear configured to target underutilized, midwater yellowtail, widow, and canary rockfish while avoiding overfished, bottom-dwelling yelloweye rockfish. Alongside 100 percent observer coverage, this EFP would also test a new electronic monitoring (EM) device tailored to small vessels that are difficult to observe with human observers. These EFP activities will take place within the non-trawl RCA (referred to as Fixed Gear RCA in the EFP application) off the Oregon Coast – specifically in the rocky reef habitat at depths ranging from 30 to 100 fathoms (55 to 183 m). The Council approved this EFP application for final recommendation to NMFS with the understanding that the applicant will: 1) harvest no more than 5 metric tons (mt) of canary rockfish as opposed to the requested 10 mt; 2) use artificial fishing lures; and, 3) limit the number of hooks per individual line to 40 or less with a maximum of 125 hooks total. The Council recommended the use of artificial fishing lures and a maximum hook limitation in order to minimize potential seabird interactions.

- **Monterey Bay Regional Exempted Fishing Permit – Chilipepper Rockfish:** Real Good Fish of Moss Landing, California submitted an EFP to authorize 5-10 vessels to: 1) test a trolled hook-and-line gear configured to target underutilized, midwater chilipepper rockfish and avoid overfished, bottom-dwelling yelloweye rockfish; 2) determine areas that are abundant with chilipepper rockfish and that correspond to low densities of overfished yelloweye rockfish; and, 3) to test a new EM and vessel monitoring system intended to provide a cost-effective alternative to observer coverage on small vessels. These EFP activities will take place in the non-trawl RCA off the California coast – specifically in areas with canyon edges and walls that have historically produced high

volumes of chilipepper rockfish catch and at depths ranging from 40 to 150 fathoms (73 to 274 m).

During the two-year period of EFP activities from 2019 to 2020, all applicants will adhere to EFP set-asides for targeted and incidental groundfish and other species, which were considered and approved by the Council at their June 2018 meeting. These EFP set-asides are off the top deductions from the 2019-2020 applicable annual catch limits (ACLs), meaning any landings and discards that occur under these EFPs would be accounted for within the applicable ACLs.

NMFS does not expect any impacts to the environment, essential fish habitat, or protected or prohibited species from this EFP beyond those analyzed for the groundfish fishery as a whole in applicable biological opinions^{1,2} or the draft Environmental Assessment for the Pacific Coast Groundfish Fishery 2019-2020 Harvest Specifications and Management Measures³. During Council deliberations, Council members expressed concern regarding seabird and canary rockfish impacts from the Scott Cook EFP, and salmon bycatch impacts from all three EFPs. To address seabird concerns, the Council requested modifications to the Scott Cook EFP, which included requiring participating vessels to use artificial fishing lures (as opposed to live bait) and limiting hooks to a maximum of 40 hooks per line with a maximum of 125 hooks total. NMFS will require additional mitigation measures if necessary to ensure that all potential seabird impacts fall within the scope of the 2017 United States Fish and Wildlife Biological

1 Available at: http://www.westcoast.fisheries.noaa.gov/publications/fishery_management/groundfish/s7-groundfish-biop-121117.pdf

2 Available at: http://www.pcouncil.org/wp-content/uploads/2017/10/F7_Att1_USFWS_2017_STALBiOp_NOV2017BB.pdf

3 Draft available at: https://www.pcouncil.org/wp-content/uploads/2018/06/E4_Supp_REVISEDAtt2_2019-20_GFSpexEA_E-Only_June2018BB.pdf

Opinion² for Pacific Coast Groundfish Fishery impacts on seabirds. To address canary rockfish concerns, the Council requested a reduction in the Scott Cook EFP set-aside from 10 mt to 5 mt in order to take a precautionary approach in providing opportunities to target canary rockfish. To address the possibility of salmon bycatch, the Council requested that NMFS consider precautionary limits for bycatch of endangered salmon that may occur during EFP fishing activities. NMFS requested that the applicants estimate their expected bycatch of Chinook and coho salmon, and will present this information at the September 2018 Council meeting. NMFS will request that the Council provide additional input on the proposed salmon bycatch limits or additional considerations for approving these EFPs based on the expected salmon encounter rates and any public comments received during the comment period for the EFPs. The salmon bycatch limits that the Council approves would be counted against the non-whiting salmon bycatch guidelines for Chinook (5,500) and coho (560) salmon bycatch in NMFS's 2017 Biological Opinion. The terms and conditions of the EFP would state that EFP fishing will cease if vessels reach the expected salmon bycatch levels specified in the EFP.

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

Dated: August 31, 2018.

Margo Schulze-Haugen,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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